

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

|                         |   |                     |
|-------------------------|---|---------------------|
| <b>SLOAN &amp; CO.,</b> | : |                     |
| <b>Plaintiff,</b>       | : | <b>CIVIL ACTION</b> |
|                         | : |                     |
| <b>v.</b>               | : |                     |
|                         | : |                     |
| <b>LIBERTY MUTUAL</b>   | : |                     |
| <b>INSURANCE CO.,</b>   | : | <b>No. 07-5325</b>  |
| <b>Defendant.</b>       | : |                     |

**ORDER**

**AND NOW**, this 3<sup>rd</sup> day of **December, 2009**, upon consideration of Plaintiff's Motion for Second Partial Summary Judgment, Defendant's Second Cross-Motion for Partial Summary Judgment, the parties' responses thereto, the November 20, 2009 oral argument on these motions, and for the reasons discussed in the Court's Memorandum of December 3, 2009, it is hereby **ORDERED** that:

1. Plaintiff's Motion for Second Partial Summary Judgment (Doc. No. 48) is  
**GRANTED in part and DENIED in part.**
  - a. Plaintiff's motion seeking to preclude Defendant from deducting Shoemaker Construction Corporation's and/or Defendant's legal fees from the balance of Plaintiff's claim is **GRANTED**. Defendant is hereby precluded from deducting Shoemaker Construction Corporation's or Defendant's attorney's fees or expenses from the amount it owes to Plaintiff. Judgment is entered in favor of Plaintiff on this issue in the amount of \$16,579.
  - b. Plaintiff's motion as to repairs is **DENIED**.
  - c. Plaintiff's motion as to deficiencies is **GRANTED**. Judgment is entered in favor of Plaintiff on the issue of deficiencies in the amount of \$24,600.

d. Plaintiff's motion as to prejudgment interest is **GRANTED in part**.

Judgment is entered in favor of Plaintiff for prejudgment interest on this Court's August 25, 2009 Order in the amount of \$98,854. Judgment is entered in favor of Plaintiff for prejudgment interest on the amount awarded in the present order in the amount of \$5,862.

e. Therefore, in addition to the \$785,067 judgment the Court entered in favor of Plaintiff in its August 25, 2009 Order, judgment is entered in favor of Plaintiff in the amount of \$145,895.

2. Defendant's Cross-Motion for Summary Judgment (Doc. No. 51) is **DENIED**.

**BY THE COURT:**

A handwritten signature in blue ink, appearing to read 'Berle M. Schiller', is written over a horizontal line.

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**Berle M. Schiller, J.**